

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

VICTAULIC COMPANY,

Plaintiff,

v.

HiTHERM, LLC *et al.*,

Defendants.

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CIVIL ACTION NO. 21-5077

**ORDER**

**AND NOW**, this 28th day of March, 2024, upon consideration of the Motion for Sanctions (ECF Nos. 95, 96) filed by Plaintiff Victaulic Company (“Victaulic”), the opposition thereto (ECF No. 104) filed by Defendants HiTHERM, LLC (“HiTHERM”) and Aniq Sufi, and Victaulic’s reply in support thereof (ECF No. 107), and having held oral argument on the matter on January 23, 2024, it is hereby **ORDERED** as follows:

1. Victaulic’s Motion is **GRANTED IN PART AND DENIED IN PART** for the reasons set forth in the accompanying memorandum;
2. An adverse inference instruction on the topics noticed for Eduardo Casals’s deposition will be provided to the jury at trial, and Mr. Casals will not be permitted to testify at trial as to any of these topics;
3. Defendants are precluded from introducing evidence or otherwise taking a position contrary to the testimony of Carl Duarte; and
4. Defendants and their counsel shall pay the reasonable expenses, including attorney’s fees, caused by the failure of Mr. Casals and Mr. Duarte to appear for their depositions. Such expenses and fees shall include those incurred to litigate the present Motion and participate in the portion of the January 23, 2024, oral

argument that pertained thereto. Victaulic shall submit a bill of costs and motion for attorney's fees within 30 days of this Order, to which Defendants may respond within 14 days thereafter.

**BY THE COURT:**

/s/ Jeffrey L. Schmehl  
**JEFFREY L. SCHMEHL, J.**